

## **REMARKS/ARGUMENTS**

In Response to the rejections under §112, the Applicant has amended the claims as follows: 11 and 49 have been amended to replace “soft” with “comfortable”. Claim 17 has been amended to reflect that the supply consists of “multiple of said identification tag” providing antecedent basis for the identification tag recited therein. Claim 20 has been amended to make identification tag singular in conformity with independent claim 1. Claim 23 has been amended to refer to the group of identification tags identified in claim 22. Regarding claim 53, “said associated strap” has antecedent basis in claim 42 from which claim 53 depends. Independent claim 42 recites “an associated one of said straps”, as well as, “said associated strap”.

The present invention as set forth in the amended claims recites an identification tag that is mounted on a elastomeric strap or wristband through the use of two slots in the tag. Alternate embodiments describe configurations where: (1) the tag has a width extending beyond the width of the strap; and (2) the long dimension of the tag is perpendicular to the long dimension of the strap.

The first configuration provides that the tag is attached to the elastomeric strap through slide-fit reception of the strap through the slots in the tag while being generally aligned with the strap. This configuration is distinguished from the prior art cited. Krug does not disclose a tag that is mounted on a strap by slide-fit reception through two straps. Nichols does not disclose an identification tag system that uses an elastomeric strap.

The second configuration provides that the tag is attached to the strap in the same manner while being oriented perpendicular to the strap, i.e., oriented along the underlying surface rather than around the underlying surface. This configuration reduces the degree of curvature that a tag would experience when mounted on a person or object, specifically around a small diameter, i.e., an infant or child. As described in the specification, this orientation provides that the extensive information bearing surface area of the tag is retained while the

localized strap zone of substantially or nearly planer shape defined by the shorter width of the tag is substantially minimized for enhanced user comfort. (Page 17, lines 16-20). The system is designed such that the tags will not be subject to curvature when applied to a mother or infant and presents comfortable material and edges against the skin of wearers. The degree of curvature of the tags in the present invention is non-existent as the tag runs along the flat surface up or down a person's arm or leg verses wrapping around the curved surface of a person's arm or leg. This orientation presents a relatively large flat surface on which barcodes can be more easily read and where RFID tags have less opportunity for damage and more opportunity for broader range. In addition, multiple tags may be used on the same wristband as there is a much greater degree of flat surface running up or down a person's arm or leg versus the very limited surface around that the same arm or leg along the wristband. Neither Krug nor Nichols disclose a configuration where the tag extends perpendicular to the strap in this manner.

Independent claims 1, 28 and 42 have been amended to specifically claim one of the configurations described above. In addition, new claims 87 through 94 have been added directed to the second configuration. These claimed configurations distinguish the present invention from the cited art, as described above. The first configuration, as claimed in independent claims 1 and 28, uses two slots in the tag to achieve the desired orientation along the elastomeric strap. The second configuration, as claimed in independent claims 42 and 87, also uses two slots but orients the tag perpendicular to the elastomeric strap to achieve the stated advantages, i.e., the effective use of a larger area tag while minimizing the degree of curvature of the tag when applied to a user or object having a small circumference. The second configuration also permits the use of multiple tags on a single wristband effectively doubling, tripling, etc., the effective tag surface area while still reducing the degree of curvature of each tag. This stated advantage obviates the prior rejection of the claimed perpendicular orientation embodied in canceled claim 15. The perpendicular orientation is not

merely a matter of design choice and the arrangement taught by Nichols does not work equally as well.

The Office Action rejected claims 1-7, 11, 12, 16, 28-32, 35 and 37 under 35 USC §102(b) as being anticipated by Krug (U.S. Patent No. 4,226,036). Claims 1-5, 7, 11-14, 16, 28-31 and 35-37 were rejected under 35 USC §102(b) as being anticipated by Nichols (U.S. Patent No. 2,054,227).

In addition, the Office Action rejected numerous claims under 35 USC §103(a) as being unpatentable over either Krug or Nichols in view of various combinations with other prior art references including Mosher, Jr. (U.S. Patent No. 5,973,600), Kotik et al. (U.S. Publication No. 2005/0091896) or Garross et al. (U.S. Publication No. 2002/0190520), Laurash (U.S. Patent No. 6,836,215) or Huddleston et al. (U.S. Patent No. 5,653,472), and Knodel (U.S. Patent No. 4,179,833), or Vidolin et al. (U.S. Patent No. 6,880,364).

**Krug (U.S. Patent No. 4,226,036)**

Krug fails to disclose every element of the invention as presently claimed. Specifically, Krug fails to disclose the first embodiment using two slots on the tag to secure the tag to the strap generally aligned with the strap as claimed in independent claims 1 and 28. Independent claims 1 and 28 have been amended to specifically include as a limitation that the tag is mounted on the strap using two slots such that the tag extends beyond the strap. The claim limitation that requires that the tag have two slots for slide-fit reception of the strap ensures that the tag runs along the surface of an arm or leg on which the identification tag system is mounted rather than extending away from the arm or leg. As set forth above and in the specification, there are clear advantages to the claimed orientation versus that shown in the prior art. (Claims 1, 28). Accordingly, Krug fails to anticipate claims 1-7, 11, 16, 28-32 and 37 as set forth in the Office Action.

**Nichols (U.S. Patent No. 2,054,227)**

The citation to Nichols is antithetical to the claimed invention. Nichols discloses a metal-banded, metal-tag, etch-imprinted cotton baling device. In contrast, the present invention claims an elastomeric tag and elastomeric strap in independent claims 1 and 28 and an elastomeric strap in claims 42 and 87. This elastomeric tag is made from a semi-rigid elastomeric material that is soft and comfortable for a wearer. This elastomeric strap is comprised of soft, comfortable material and is intended to be comfortable when worn. A person having ordinary skill in the art looking to create an identification system as claimed in the present invention would not look to the firm, metal band and bale tag described in Nichols. As set forth above and in the specification, there are clear advantages to the claimed orientations verses that shown in the prior art. Accordingly, Nichols fails to anticipate claims 1-5, 7, 11, 14, 16, 28-31 and 37 as set forth in the Office Action.

**Mosher (U.S. Patent No. 5,973,600)**

Mosher specifically discloses that the RFID tag is enclosed in the wristband. In contrast, the present invention claims an RFID circuit carried by the tag (claims 8-10, 33-34, 47-48 and 92-93) that is separate and distinct from the wristband permitting its reuse with other wristbands. The reusable feature is not taught by either Krug or Mosher. Accordingly, Krug in view of Mosher in combination with either Krug or Nichols fails to render any of the amended claims obvious.

**Kotik (U.S. Publication No. 2005/0091896) or Garross et al. (U.S. Publication No. 2002/0190520)**

Regarding Kotik and Garross, as with Mosher, these references teach the use of an RFID tag as part of the band or card itself. In contrast, the present invention claims that the RFID circuit carried by the tag (claims 8-10, 33-34 and 47-48) is separate and distinct from the wristband and therefore reusable with

other wristbands. In addition, the inventor conceived of the present invention prior to the filing date of both Kotik and Garross. The accompanying 131 Declaration from the inventor Alexander Bekker establishes the inventor's conception (September 2000) prior to the filing date of Kotik (October 30, 2003) and Garross (June 14, 2002). Neither Kotik nor Garross can be used as a reference against the present invention. Accordingly, Kotik or Garross in combination with either Krug or Nichols fails to render any of the amended claims obvious.

**Laurash (U.S. Patent No. 6,836,215) or Huddleston (U.S. Patent No. 5,653,472)**

As discussed above, Krug fails to teach an ID tag with the orientation as set forth in the claims. In addition, as conceded by the Office Action, Krug does not disclose providing a plurality of identification tags. Laurash teaches an identification band with an RFID chip attached directly to the band. As discussed above with other references, the present invention claims an RFID circuit carried by the tag (claims 8-10, 33-34, 47-48 and 92-93) separate and distinct from the wristband thus making the tag reusable with different wristbands. In addition, the 131 Declaration submitted herewith establishes that the present invention was conceived of prior to the filing date of Laurash (January 22, 2002). Laurash cannot be used as a prior art reference against the present invention. In addition, Huddleston fails to teach the claimed orientation of the tag to the wristband as set forth in the claims. Accordingly, Laurash or Huddleston in combination with either Krug or Nichols fails to render any of the amended claims obvious.

**Knodel (U.S. Patent No. 4,179,833) or Vidolin (U.S. Patent No. 6,880,364)**

The "tags" that the Office Action cites to in Knodel and Vidolin are not tags at all and comprise a different structure with a different purpose from the claimed invention. Knodel teaches tabs with a single slot that are intended to be

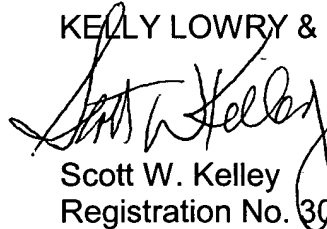
attached and removed from the wristband upon which they are mounted without opening the loop of the wristband. The tabs of Knodel extend away from the wearer of the wristband. Vidolin discloses closed loop members that surround the wristband rather than extend perpendicularly from the wristband. Accordingly, Knodel or Vidolin in combination with either Krug or Nichols fails to render any of the amended claims obvious.

### CONCLUSION

Accordingly, Applicant respectfully submits that claims 1-11, 14-23, 28-34, 37, 42-49, 52-58 and 87-94 are in condition for allowance and respectfully request notice of same.

Respectfully submitted,

KELLY LOWRY & KELLEY, LLP



Scott W. Kelley  
Registration No. 30,762

SWK:cw  
Enclosure  
6320 Canoga Avenue, Suite 1650  
Woodland Hills, CA 91367  
(818) 347-7900